

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

COMMENTS OF AT&T CORP. DOCKET FILE COPY ORIGINAL

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SUMMARY

As the Act requires, the Federal-State Joint Board's Recommended Decision proposes a fundamental overhaul of the entire universal service system. The broad outlines of the Board's proposal are sound, and if adopted would form the basis of a competitively neutral system of universal service support. The Board properly recognizes that competitive neutrality should be one of the guiding principles of any universal service policy pursuant to Section 254(b)(7) of the Act. In addition, the Board recommends that high cost support must be based on the forward-looking economic cost of providing service in a particular locale, and that such costs can be determined by an appropriate proxy model. And the Board concludes that subsidies must be portable -- i.e., that any carrier eligible under Section 214, including those providing service by means of unbundled network elements, can receive the subsidy if it wins the customer. AT&T applauds and supports these basic features of the Board's proposal.

With respect to high cost support, AT&T agrees with the bulk of the Board's recommendations. However, there are a few areas in which the Commission should adopt those recommendations in modified form in order to make the system more competitively neutral.

First, the Commission should require carriers' contributions to the USF to be based on total retail telecommunications revenue, both interstate and intrastate. Such a requirement would appropriately broaden the base of support and would avoid increasingly difficult jurisdictional separations determinations.

Second, the Commission should require universal service contributions to be reflected as a surcharge on end user bills. This requirement would strongly promote competitive neutrality, because it would prevent carriers from structuring their rates to strategically

allocate the cost of the subsidy among their various services to the disadvantage of consumers and competitors.

Third, the Commission should not adopt the Board's suggested modifications to the common carrier line charge (CCLC) and the subscriber line charge (SLC) in this proceeding. The Board's specific proposals would be counterproductive, and in any event those issues are more properly addressed in the Commission's upcoming access reform proceeding.

The Commission should also take several steps to control the overall cost of the new system of universal service support. For example, the Commission should not adopt the Board's tentative suggestion that the federal baseline level of support for the Lifeline program be increased to \$5.25 (with the possibility of additional federal matching funds up to \$7.00). Such an increase is unnecessary at this time, because the Commission can (and should) take other measures to address the low subscribership among low-income groups that was the basis for the Board's recommendation. Furthermore, AT&T fully supports subsidies for schools and libraries, provided the Commission adopts a per-institution cap (in addition to an overall cap), and limits the availability of consortia to eligible schools and libraries and municipalities. The Commission should not require telecommunications carriers to fund Internet access and inside wiring from the USF because the Commission has no statutory authority to do so. In addition, inclusion of support for Internet access and inside wire would inflate the size of the USF to unsustainable levels. The Commission should also adopt certain measures to control the cost of support for rural health care providers, including an overall cap on rural health provider funding.

Finally, the Commission should take certain steps to ensure the sound administration of the USF. As the Board recommended, the Commission should appoint a neutral administrator to oversee the new USF system. But the administrator should be someone other than NECA, which (as the Board recognizes) is not likely to be neutral, at least as currently constituted. And, to avoid needless implementation costs and dislocations, the Commission should make clear that the new system of universal service support will not take effect prior to the completion and implementation of the Commission's upcoming reform of the access charge regime.

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COMMENTS OF AT&T CORP.

Pursuant to the Commission's November 18, 1996 Public Notice ("Public Notice"), AT&T Corp. ("AT&T") hereby submits these comments on the Federal-State Joint Board's Recommended Decision ("RD"), released November 8, 1996, regarding implementation of the universal service provisions of the Telecommunications Act of 1996 ("Act").¹

INTRODUCTION

Consistent with the Act's directive, the Joint Board has recommended a fundamental overhaul of the entire universal service system, and AT&T generally applauds these recommendations. The Board properly recognizes that the current system of universal service support is inefficient and, indeed, impedes the development of the local service competition that is the principal goal of the Act. This is because the current system in effect collects subsidies largely from interexchange carriers -- through artificially high access charges -- and then transmits those subsidies only to incumbent local exchange carriers, regardless whether the customers for whom the subsidies are intended receive service from the incumbent or someone else. Accordingly, the Board has proposed a set of reforms that would go a long way

¹ The Commission opened this proceeding with a notice of proposed rulemaking soliciting comments on how the universal service provisions of the Act should be implemented. Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking and Order Establishing Joint Board, CC Docket No. 96-45, FCC 96-93 (released March 8, 1996) ("NPRM").

toward achieving the Act's objective that universal service be funded and provided in a competitively neutral manner. In so doing, the Board has made three key proposals and findings, each of which AT&T supports:

First, the Board correctly recommends that the Commission explicitly recognize competitive neutrality as a fundamental principle upon which to base any policy for the preservation and advancement of universal service pursuant to § 254(b)(7). RD at ¶ 23. As the Board states, the principle of competitive neutrality underlies many of the provisions of § 254. Id. Equally important, the Board correctly recognizes that universal service funding and support must be neutral with respect to technology as well, and therefore must be structured to allow "the marketplace to direct the development of growth of technology." Id.

Second, the Board correctly recognizes that high cost support must be based on the forward-looking, economic cost of providing service. Accordingly, the Board recommends that high cost universal service support be determined (for carriers other than rural telephone companies) by comparing a national benchmark "affordable rate" to the forward-looking economic cost of providing service in that locale. To that end, the Board has correctly concluded that "a properly crafted proxy model can be used to calculate the forward-looking economic costs for specific geographic areas, and be used as the cost input in determining the level of support a carrier may need to serve [customers in] a high cost area." RD at ¶ 268. Indeed, the Board correctly observes that an appropriate cost proxy model is "vital" to the new universal service system. See id., at ¶ 275.

Third, the Board recognizes that universal service subsidies must be fully portable, i.e., they must follow the customer rather than the carrier. Accordingly, the Board concludes that

any carrier that meets the criteria set forth in § 214(e) should be eligible to receive universal service support, regardless of the technology used by that carrier and whether the carrier is an incumbent LEC or a new entrant. Indeed, the Joint Board's decision makes clear that carriers providing the supported services using unbundled network elements provided by another carrier can and should receive any universal service support to which the customer is entitled. As the Board stated, this approach "best embodies the pro-competitive, de-regulatory spirit of the 1996 Act and ensures the preservation and advancement of universal service." RD at ¶ 155.

In short, the broad outlines of the Board's proposals are laudable and, if adopted, would establish a framework for a sound, competitively neutral system of universal service support. Accordingly, the Commission should adopt the Board's suggested framework, as well as most of the Board's specific recommendations.

Rather than devote the remainder of these comments to the many proposals on which AT&T agrees with the Board (and which in many cases AT&T advocated), these comments will focus on the few areas in which the Board made no recommendation or in which the Commission should adopt the Board's recommendations in modified form. As explained in Section I, the Commission should take certain additional steps to ensure that high cost support is competitively neutral. As explained in Section II, the Commission must also make certain modifications to the Board's proposals with respect to low-income support, as well as support for schools, libraries, and rural health care providers, in order to keep the overall size of the subsidy scheme from once again spinning out of control. Finally, as explained in Section III,

the Commission should adopt certain rules to facilitate equitable administration of the new universal service system.

I. THE COMMISSION SHOULD TAKE FURTHER STEPS TO ENSURE THAT THE HIGH COST SUPPORT SYSTEM IS COMPETITIVELY NEUTRAL.

AT&T applauds the Joint Board's commitment to competitive neutrality. As the Board found, this fundamental requirement is embodied in several sections of the Act, including §§ 254(b)-(f) and § 214(e). The Board is also correct in concluding that, only by applying "[u]niversal service support mechanisms and rules . . . in a competitively neutral manner" (RD at ¶ 23) can all interstate telecommunications carriers contribute on an "equitable and nondiscriminatory" basis (§ 254(d)) as well as promote the pro-competitive goals of the Act. The reason is straightforward: the discipline of the market will decrease rates and increase quality by spurring technological innovation and the elimination of waste. All telecommunication services, including those subsidized by the USF, will thereby become more affordable. Thus, by promoting competition, the Commission can also fulfill its universal service obligations at less cost.

Some of the Joint Board's proposals concerning high cost support, however, do not fully comport with competitive neutrality and, in fact, threaten to undermine the benefits promised by the Act. Accordingly, the Commission should take the following steps to ensure that all carriers compete on an even playing field: (a) adopt the Board's recommendation to use both interstate and intrastate revenues in calculating the USF base for schools and health care providers, and extend that principle to all universal service programs; (b) require that universal service support be collected in the form of a retail surcharge on the end user bill;

(c) modify the CCLC mechanism in the upcoming access reform proceeding, and prior to the implementation of universal service reform; and (d) continue efforts to identify the best possible cost proxy model for use in establishing support requirements.

A. The Commission Should Use Combined Interstate And Intrastate Revenues In Calculating The Revenue Base For Collection Of Universal Service Contributions.

The Joint Board made no specific recommendation with respect to whether the revenue base for the federal USF for high cost or low-income support should include interstate revenues only, or a combination of interstate and intrastate revenues. The Commission should choose the latter option, for four reasons.

First, it is required by competitive neutrality. The advent of local competition and the accompanying influx of long distance providers (if it occurs) will inevitably blur the distinction between interstate and intrastate revenues. Indeed, some carriers may ultimately offer local, broadband, cellular, paging, and long distance services in a single package. While these composite offerings may be attractive to consumers, they will also enable some carriers to structure their rates so as to reduce their USF support obligations by offering these packages under intrastate rates, and thereby gain a competitive advantage. Thus, limiting universal support to interstate revenues only would dramatically increase the difficulty of administering the system, because it would require a host of increasingly difficult jurisdictional determinations. Assessing USF charges as a flat percentage of total retail telecommunications services would ensure that the USF system does not give carriers an incentive to "game" their rates in this manner.

Second, the Act plainly authorizes -- indeed, contemplates -- this kind of non-jurisdictional universal contribution scheme based on total retail telecommunications revenue. For example, the language and structure of the Act indicate a congressional intent that the revenue base be as broad as possible. Section 254(d) of the Act gives the FCC authority to establish universal service mechanisms based on contributions from "[e]very telecommunications carrier that provides interstate telecommunications services." That section, however, conspicuously does not limit such contributions to interstate revenues. Moreover, Section 254(d) requires universal service mechanisms that are not only "specific" and "predictable," but also "*sufficient*" to "preserve and advance universal service" (emphasis added). See also § 254(b)(4) (giving the Joint Board and the Commission broad authority to establish contribution obligations applicable to "*all* providers of telecommunications services" (emphasis added)).

That Congress contemplated a USF based on intrastate as well as interstate revenues is buttressed by Section 254(f), which gives the States only a complementary role in the universal service system. Under Section 254(f), state USF programs are expressly made *discretionary*. See § 254(f) ("A State may adopt regulations . . ."). If a State wishes to guarantee a greater level of universal service support than the federal USF would provide, Section 254(f) gives the states authority to collect contributions from telecommunications carriers that provide intrastate telecommunications services.² Pursuant to § 254(f), state USFs

² Section 254(f) similarly does not limit state USF funding to the intrastate revenues of intrastate carriers. Thus, states could also base state USF funding on total retail revenues of calls billed within the state, as Vermont has done. See RD ¶ 822 (citing Vermont Stats., (continued...))

need only be "sufficient" for the *incremental* assistance they provide and state USF regulations may not "rely on or burden Federal universal service support mechanisms." This structure thus forecloses any contention that Congress intended the federal USF to be based only on interstate revenues, with state USFs being based on intrastate revenues.

Moreover, it is undisputed that Congress intended the funds from the federal USF to be used to *subsidize* primarily intrastate services. Cf. RD ¶ 822. It would be anomalous to conclude that *contributions* must nonetheless be limited to interstate revenues. Excluding intrastate revenues for some purposes would create a serious and irrational flaw within the USF system.

Third, restricting the USF base to interstate revenues would jeopardize the fund's ability to support both the high cost and low-income USF programs. Indeed, without the additional support intrastate revenues provide, states requiring a large amount of high cost and low-income support will be forced to fund this support from a surcharge on their own consumers, even though these consumers are likely to be the ones least able to afford the added expense. Contrary to congressional intent, then, narrowing the federal revenue base by excluding intrastate revenues would adversely impact the very states most in need of the subsidies.³

² (...continued)

Title 30, Chapter 87, Section 7521(a)).

³ States should consider reducing the impact of universal service support on intrastate revenues by applying contribution from yellow pages revenues as an offset to the subsidy requirement prior to calculating a USF surcharge. The MFJ Court assigned yellow pages to the RBOCs ostensibly for the purpose of maintaining affordable residential rates. Yellow pages revenues should continue to be used for that purpose.

Fourth, the same rationale used by the Joint Board in recommending that the subsidies for schools, libraries, and rural health care providers be based on total revenues (RD ¶ 817) also applies to high cost and low-income support. There is no statutory or policy ground for distinguishing between the revenue base for USF assistance to education and health versus aid to low-income individuals or customers in high costs areas. Given the enormous benefits that would flow from including all retail telecommunication services in the revenue base, the Joint Board's suggestion with respect to support for these public institutions should be extended to include all USF programs.

B. The Universal Service Fund Should Be Funded By A Retail Surcharge On End Users' Bills.

The USF, moreover, should be funded by a surcharge that is both based upon and reflected in end users' retail bills.⁴ First, the Board's finding that a mandatory end user surcharge is prohibited -- by virtue of the Act's provision that "carriers" must contribute to universal service support -- is erroneous. It cannot be squared with the statutory command that universal service support be "explicit." See § 254(e). Moreover, there is no escaping the fact that consumers will ultimately bear the cost of universal service support, whether through carrier rates or a separate line-item on the retail bill.

Second, an explicit, visible recovery method best ensures competitive neutrality because it requires carriers to assess the cost of universal service proportionately across all of

⁴ The Joint Board recommends that contributions to the USF be based on a "carrier's gross telecommunications revenues net of payments to other carriers." RD at ¶ 807. Furthermore, the Board recommended against requiring universal service support to be reflected on the end user bill as a surcharge (without prohibiting *carriers* from separately stating the costs of universal service support on customer bills). Id. at ¶ 812.

their services. Failure to do so would allow a carrier to strategically allocate the cost of the subsidy among its various services to the disadvantage of consumers and competitors.

Third, an explicit surcharge will have the added benefit of enabling regulators to prevent the subsidy from spinning out of control in the future. NPRM at ¶ 28. Such a "sunshine" requirement will create public pressure to keep overall subsidy levels in check.

The surcharge, moreover, should be based on customer-specific retail revenues, not on a carrier's gross revenues net of payments to other carriers. This will guarantee that all subscribers make a fair and equitable contribution on exactly the same basis -- all retail revenues -- without giving carriers the opportunity to recover strategically their USF support obligations from select customer segments.⁵ It will also ensure that high-volume users, who derive the greatest benefit from the network, bear a proportionate share of the universal service obligation.⁶ Such a surcharge will also be easy to administer.⁷

⁵ It bears emphasis that, even if the Commission adopts the Joint Board's recommendation that USF support be assessed against carriers' gross telecommunications revenues net of payments to other carriers (RD ¶¶ 807-12), the Commission should still require each carrier's obligation to be recovered equiproportionally from all services and reflected as a line-item on the services bill.

⁶ Because wireless customers, unlike customers of other services, pay for both placing and receiving calls, the surcharge on bills to wireless customers should apply only to basic service, and to revenues associated with originating calls.

⁷ The Commission should also reject the Joint Board's proposal to establish a de minimis exemption for small carriers, allowing them to escape support requirements for the USF system. RD at ¶¶ 799-800. While the Act does permit such an exception for those carriers where the cost of administering their compliance would outweigh their contributions, it certainly does not mandate such an exception. AT&T's proposed end user retail surcharge would be administratively simple and cost effective, obviating the need to allow any carrier to opt out of contributions of the universal service system.

C. The Commission Should Modify The CCLC In An Access Reform Proceeding To Be Implemented Prior To Universal Service Reform, And Should Not Reduce The SLC.

Another respect in which the Joint Board's proposals fall short of competitive neutrality is in the treatment of the carrier common line charge or "CCLC" and the subscriber line charge or "SLC."⁸ The Commission should reject the Joint Board's suggested modifications to the CCLC and SLC. See RD at ¶¶ 11, 773, 776. As explained below, both measures would be counterproductive, and would frustrate the goals of universal service.

More fundamentally, however, the issues concerning modification of the CCLC and SLC are more properly addressed in the Commission's upcoming access reform proceeding, in which AT&T will explain at greater length why access should be priced at forward-looking economic cost, and how this can be done. Any reformulation of these individual components of the access charge regime should occur only in the context of a comprehensive proceeding, in which the Commission can seek comment on the full range of needed revisions to the access charge rules and can have an adequate opportunity to consider all of the ramifications of such changes.

1. The CCLC Should Be Eliminated Entirely Because It Is An Inefficient Cross-Subsidy Prohibited By The Telecommunications Act.

The CCLC, as presently designed, is one of the most significant barriers to effective competition in the telephone industry. As AT&T will explain at greater length in the upcoming access reform proceeding, the fundamental flaw in the CCLC is that it is assessed

⁸ See RD at ¶ 756.

directly on interexchange carriers, rather than on the purchaser of the subscriber line,⁹ who is the true "cost causer," and that it is assessed on a usage-sensitive basis to recover a non-traffic-sensitive cost. This arrangement is inherently inefficient and sends incorrect signals both to end users and interexchange carriers. The only way to eliminate these inefficiencies is to eliminate the CCLC altogether.

The Joint Board, however, has proposed a change to the CCLC that, if anything, would make matters worse. The Board focuses only on the second problem with the CCLC: that it forces IXCs to pay a usage-sensitive rate for a non-traffic sensitive cost. RD at ¶ 11. But the Board's recommended solution -- replacing the usage-sensitive CCLC with a flat-rate CCLC imposed only on interstate carriers -- is contrary to the goals of competitive neutrality for two reasons.

First, it fails to address the fundamental problem that the CCLC is an arbitrary charge levied on interstate carriers rather than on the cost-causer. Although the usage-sensitive nature of the CCLC may distort consumer and provider behavior in the long-distance market, the more fundamental inefficiencies of this implicit cross-subsidy would persist regardless of the manner in which it is assessed. Thus, the inherent defectiveness of this cross-subsidy would not disappear simply through the adoption of a flat-rate CCLC.

⁹ The purchaser of the subscriber line may be either the end user, who obtains the subscriber line as part of his basic local service for which he pays a basic local service rate, or the CLEC, which obtains the subscriber line as an unbundled network element. In the case of the CLEC, it has fully compensated the ILEC for the forward-looking costs of the subscriber line, thus making the CCLC unnecessary.

Second, continued assessment of the CCLC, even as a flat-rate charge, is inconsistent with the Act's requirement that all implicit cross-subsidies be removed in favor of a competitively neutral USF. Only in those service areas where the SLC in conjunction with the subscriber basic local service rate fails to recover the forward-looking cost of the loop is a subsidy necessary. In those circumstances, the subsidy should be provided through a competitively neutral USF that is funded by surcharges on all retail revenues, rather than through the cross-subsidies implicit in the CCLC.

2. Lowering The SLC Could Unnecessarily Increase USF Revenue Requirements.

The Board's suggestion (§ 772) to reduce the SLC should likewise be rejected. Unlike the CCLC, the SLC is an appropriate, justifiable fee. Through this mechanism, the cost-causing end user compensates the ILEC for the interstate portion of the subscriber line. As the Joint Board found, current rate levels, which include a \$3.50 SLC, are generally affordable. RD at § 133. Thus, lowering the SLC would serve no valid universal service objective, but would increase the universal service subsidy requirements.

First, the revenue required to provide universal service in high cost areas will increase. For example, if the cost proxy for the universal service package on a single line is \$20.00 per month, but the subscribers' rate, including the SLC, is \$12.00 per month, then there must be \$8.00 of universal service support per month. If the SLC is decreased by \$1.00 per month, however, the subscribers' rate will fall to \$11.00 per month, which will require an additional universal service contribution of \$1.00 per line per month.

Second, some service areas that would require no USF contributions at the present SLC level will require such contributions if the SLC is reduced. In the previous example, an ILEC with a subscriber rate of \$20.50 per month (including the SLC) would not require a USF contribution prior to the \$1.00 SLC decrease, but would require a \$0.50 per line per month contribution afterwards. The addition of such service areas to the USF recipient class will also create new and costly administrative burdens. In addition, reducing a charge like the SLC that is assessed on cost-causers will send incorrect signals to the market and thereby inhibit the development of competition.

D. The Commission Should Continue Its Evaluation Of Proxy Models, Like The Hatfield Model, For Use In Determining The Level Of Subsidies Required In Each Geographic Service Area.

Finally, the Commission should continue its efforts to ascertain the most appropriate cost proxy model for use in establishing universal service subsidy requirements. As the Joint Board concluded, "a properly crafted proxy model can be used to calculate the forward-looking economic costs for specific geographic areas, and be used as the cost input in determining the level of support a carrier may need to serve a high cost area." RD at ¶ 268. In ensuring competitive neutrality, it is imperative that the Commission adopt a model that fully disassociates itself from embedded costs and capitalizes on the benefits of current technology.

AT&T will play an active role in this face-to-face, industry-wide discussion as well as in the federal and state staff coordinated workshops on this issue. Moreover, steps are being taken to ensure that the next version of the Hatfield Model, set for release early in 1997, will continue to be the best cost proxy model for use in administering the Universal Service Fund.

AT&T looks forward to demonstrating its improved characteristics, efficiency, flexibility, openness, verifiability, and economic foundation to the participants in the Commission's continuing investigation.

II. THE COMMISSION SHOULD TAKE STEPS TO CONTROL THE OVERALL COSTS OF THE UNIVERSAL SERVICE SCHEME, WHICH WILL INCREASE TO UNSUSTAINABLE LEVELS IF CERTAIN ASPECTS OF THE JOINT BOARD'S PROPOSAL ARE ADOPTED.

In addition to ensuring that the universal service system is competitively neutral, the Commission must also ensure that its overall cost does not reach unsustainable levels. It was precisely this concern that led the Commission, prior to the Act, to propose a cap on the overall size of the high cost fund, and to propose further reforms to control the fund's growth.¹⁰ Similar concerns underlay the universal service provisions of the Act itself.

Strict controls on the overall size of the universal service scheme are critical to its continued existence and vitality. As the Commission has elsewhere recognized, excessive subsidies would not only reduce demand for telecommunications services -- and thereby undermine sources of financial support -- but would also erode the public support that is essential to the system's continued existence.

Although the Joint Board has proposed some useful mechanisms to control the overall costs of the universal service scheme, the Commission should take several additional steps to ensure that those costs do not spin out of control. As explained below, those measures fall

¹⁰ See, e.g., Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, Report and Order at ¶¶ 3, 9, 13, FCC 95-494, released December 12, 1995; Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, NPRM at ¶¶ 3, 46, FCC 95-282, released July 13, 1995.

into three categories: (a) those necessary to control the costs of the Lifeline program; (b) those necessary to control the costs of subsidies to schools and libraries; and (c) those necessary to control the costs of subsidies to rural health care providers.

A. With Respect To The Lifeline Program, The Commission Should Hold The Baseline Level Of Support Constant And Should Take Other Steps To Control Costs.

With one important exception, AT&T fully endorses the Joint Board's proposed changes in the structure of the existing Lifeline and Link-Up programs. In particular, the Commission should adopt the Joint Board's proposal to fund both programs by requiring all interstate carriers to contribute on an equitable and nondiscriminatory basis as a function of their total revenues (both interstate and intrastate). RD at ¶ 423. This would make the funding of these programs competitively neutral and, as the Joint Board points out, would make these programs more consistent with the principles of Section 254.

Although AT&T also supports the Joint Board's proposal to extend the Lifeline program to all fifty states (RD at ¶ 417), the Commission should reject for now the Joint Board's tentative suggestion that the federal baseline level of support be increased to \$5.25, with the possibility of further federal matching funds up to \$7.00. See RD at ¶ 419. This increase in federal support could increase the annual cost of the Lifeline program to almost \$1 billion.¹¹ Such increases are unnecessary at this time in light of several other findings made by the Joint Board.

¹¹ This figure is based on the Joint Board's recommendations (1) to extend Lifeline benefits to all eligible households (approximately 13 million based on an April 1996 U.S. Department of Commerce Report on Poverty) and (2) to double the amount of the per line subsidy from \$3.50 to \$7.00.

Specifically, the Board found that "a primary reason subscribers lose access to telecommunications services is failure to pay long distance bills." RD at ¶ 384. The Board thus recommended -- and the Commission should adopt -- Lifeline funding for the cost of voluntary toll limitation and toll blocking services, as well as a rule prohibiting carriers that receive universal service support from disconnecting customers that fail to pay toll charges. See RD at ¶¶ 384-89. These recommendations directly address the reasons why the Joint Board found that subscribership levels are lower among low-income users. Simply increasing the levels of support, in contrast, bears no necessary connection to the problem.

Therefore, the Commission should keep the baseline support level to its current capped amount of \$3.50 and extend it to all states for at least an interim period, which will allow the Commission time to assess whether these other measures will have a substantial impact on subscribership levels. Increasing the baseline support level at this time would unnecessarily increase the size of the Lifeline program -- especially when considered in conjunction with other proposed increases in universal service funding -- and would therefore jeopardize public support for the entire USF system. The Commission should revisit the issue of increasing federal support levels in two to three years.¹²

¹² In all events, the Commission should clarify that, for any customer for which a carrier receives Lifeline support, that carrier must offer the rate for that service minus the full amount of the subsidy. See RD at ¶ 424 ("We recommend that the Lifeline rate be the carrier's lowest non-Lifeline rate reduced by at least the \$5.25 amount of federal support."). Any subsidy that is not fully passed on to the eligible customer is an unwarranted windfall to the carrier. Therefore, the Commission must make clear that the carrier must reduce its rate by the full amount of the subsidy -- i.e., by the baseline level of support and by any state funding and matching federal funding. Moreover, the customer should be able to select the local service offering that best meets his or her needs (because it may be more
(continued...)

Finally, the Commission must ensure that both programs are subject to reasonable eligibility criteria and certification requirements. States should specify objective eligibility criteria as a condition of a customer's receiving any subsidy. Moreover, the Commission should establish rules prohibiting self-certification by end users -- a practice that is currently authorized in California. RD at ¶ 396 n.1307. These measures are equally vital to ensuring that the overall universal service support remains at sustainable levels.

B. Consistent With The Act, The Commission Should Limit Support For Schools And Libraries To Telecommunications Services, And Should Adopt Additional Measures To Ensure That Subsidies Are Made Available On An Equitable Basis.

AT&T fully supports the Joint Board's recommendation that telecommunications carriers should provide discounts to eligible schools and libraries for telecommunications services. AT&T agrees that the discounts should be available regardless of technology, so that eligible institutions can obtain the services that best suit their needs. AT&T also endorses the Board's general proposals to reimburse telecommunications carriers for the provision of discounted services from the USF, and to determine the discounts according to a matrix that provides varying discounts based on the socioeconomic status of the institution. RD at ¶ 555. Schools and libraries should be permitted to obtain discounts for any telecommunications service up to a T1.5 line.

The Commission, however, should modify some of the details of the Board's proposals. First and most important, the statutory basis for using the USF, which is funded solely by

¹² (...continued)

economical for the customer to have a plan with unlimited local usage rather than one with measured use).

telecommunications common carriers, to fund discounts for services other than basic telecommunications services, such as Internet access and internal connections, is doubtful. In addition, AT&T is concerned that funding for services other than telecommunications services would greatly add to the cost of the USF, which would threaten public support for universal service. For these reasons, the Commission should not adopt at this time the Joint Board's proposals concerning funding inside wiring and enhanced services. Second, the Commission should establish a per-institution cap in addition to the Board's proposed cap on overall spending for schools and libraries. Third, the Commission should establish reasonable limits on the circumstances in which schools and libraries can join a consortium for purposes of aggregating traffic to obtain lower pre-discount rates.

1. Support From The USF For Internet Access And Inside Wiring For Schools And Libraries Would Raise Significant Questions Under The Act.

AT&T endorses the principle of equipping schools and libraries as fully as possible to take advantage of the Information Age. The Board's proposal to use the USF for these purposes, however, is certain to raise significant questions under both the Act's careful definition of services which the USF is to support and the Act's explicit goal of containing the cost of subsidies. See RD at ¶¶ 462-65, 473-84.

First, the Act does not appear to provide for funding Internet access or inside wiring from the USF. Section 254(c)(1) defines universal service as "an evolving level of telecommunications services" (emphasis added). "Telecommunications" and "telecommunications services" as defined in the Act, are expressly limited to the transmission of information "without change in the form or content of the information as sent and received."

See 47 U.S.C. § 153(43) & (46). As the Joint Board has acknowledged, under these definitions Internet access (content, e-mail, subscription fees) is an "information service," not a "telecommunications service." See RD at ¶ 462. Nor is inside wiring a "telecommunications service."¹³

Section 254(c)(3) also specifies that, "[i]n addition to the services included in the definition of universal service under paragraph (1)" the Commission may designate "additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h)" (emphasis added). The use of the term "services" in subsection (c)(3) expressly refers back to the "telecommunications services" mentioned in subsection (c)(1). Therefore, while the Commission certainly may designate additional telecommunications services to be included in the set of services supported for schools, libraries, and health care providers, the Joint Board is mistaken that Section 254(c)(3) authorizes the Commission to designate other than telecommunications services for USF support.

The Joint Board recognizes these issues, but nonetheless concludes that Section 254(h)(2)(A) gives the Commission the authority to require discounts for Internet access and inside wiring. However, the Act is very specific that only telecommunications services are

¹³ At one point in the Recommended Decision, the Board contends that the installation and maintenance of inside wire facilities is a "service," and thus is perhaps covered by Section 254(c)(3). See RD at ¶¶ 474-75. Whether or not installation and maintenance are in fact "services," however, there can be no doubt that they are not "telecommunications services." The Board later appears to concede the inapplicability of Sections 254(c)(3) and (h)(1) by recommending that the Commission provide for inside wiring subsidies under authority of Section 254(h)(2). See RD at ¶ 476.